

**REMARKS**

The Examiner is invited to telephone the undersigned to discuss any issues deemed remaining after consideration of this amendment.

An Information Disclosure Statement is submitted herewith.

A fee transmittal sheet is included herewith authorizing charges to our Deposit Account No. 19-0365 for the required fees for the added independent claim, and the Information Disclosure Statement.

The specification has been amended to correct obvious inadvertent errors on pages 56 and 57.

The claims have been amended to delete non-elected subject matter pursuant the restriction requirement, and to more clearly define Applicants' claimed invention.

Applicants request rejoinder of the method of treating claims, and in view of this request Applicants have not canceled the method claims.

Claims 1, 6, 37, 58, 62, 72, 83, 96, 97, 98 and 99 have been amended.

Claims 2, 3, 15 to 29, 59 to 61, 63 to 65, 68 to 71, 73 to 76, 78 to 81, 86, 87, 93 to 96, 125 to 137, and 139 have been canceled without prejudice.

Claims 4, 5, 7 to 14, 30 to 36, 38 to 57, 66, 67, 77, 82, 84, 85, 88 to 91, 104 to 124, 138, and 140 to 157 are as originally filed.

Claims 158 to 178 have been added.

Claims 1, 4, 5, 6, 7 to 14, 30 to 58, 62, 66, 67, 72, 77, 82, 83, 84, 85, 88 to 91, 97, 98, 99, 104 to 124, 138, and 140 to 178 are in the Application.

Support for the amendments to the claims may be found, for example, in the specification and claims as originally filed.

Paragraphs (2) and (3) of original Claim 1 were intended to define substituted A moieties. The substituents were defined as R<sup>9</sup> groups. Pursuant to the restriction requirement, R<sup>9</sup> was limited to R<sup>13</sup>, and the definition of R<sup>13</sup> was limited to H and unsubstituted alkyl. In view of these definitions, the substituents on the substituted A moieties in amended Claim 1 have been limited to unsubstituted alkyl groups.

For ease of amendment, Claims 68 to 71 were rewritten as Claims 158 to 161, respectively. Claims 158 to 161 are limited to compounds falling within the scope of amended Claim 1.

For ease of amendment, Claim 96 was rewritten as Claim 178. Claim 178 has been limited to compounds falling within the scope of amended Claim 1. Support for Claim 178 is found, for example, in Examples 230-231, 304, 306-309, 314, 317-319, 321, 322, 354, 355, 357, 358, 360.18, 360.19, 360.22-360.27, 360.30, 360.31, 360.34, 360.38, 360.42-360.45, 360.47-360.49, 360.51-360.55, 360.57, 360.60, 360.62-360.66, 360.70, 360.71, 360.78, 360.79, 360.81, 360.82, 360.97, 360.98, 360.106, 360.107, 360.109-360.113, 360.114, 360.115, 368.7-368.12, 368.14, 368.15, 368.23, 368.24, 368.26, 368.28, 368.42, 368.43, 378.1, 378.2, 378.4, 378.5, 378.8, 378.10, 378.14, 378.15, 378.16, 378.21, 1112.4, 1120.8, 1200-1202, 1204, 1205, 1207, 1209, 1210, 2006-2008, 2010, 2012, 2015, 2017, 2029, 2044, 2049, 2053, 2055, 2079 and 2080.

### **Rejection – 35 USC § 112**

Claim 1 stands rejected under 35 USC § 112, second paragraph, for the reasons of record, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants respectfully disagree with this rejection.

Applicants' specification does conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the Applicants regard as the invention.

However, in order to expedite prosecution, Claim 1 has been amended to make clear that it is directed to unsubstituted and substituted A moieties. Since this amendment was not made to narrow the original scope of the invention as claimed, the application of the Doctrine of Equivalents is not affected.

The Examiner is respectfully requested to reconsider and withdraw this rejection.

#### **Rejection – 35 USC § 112**

Claims 96 to 99 stand rejected under 35 USC § 112, second paragraph, for the reasons of record, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants respectfully disagree with this rejection.

Applicants' specification does conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the Applicants regard as the invention.

However, in order to expedite prosecution Claims 97 to 99 have been amended to add the structures that are within the scope of amended Claim 1.

For ease of amendment Claim 96 was rewritten as Claim 178. Claim 178 comprises the structures that are within the scope of amended Claim 1.

Since these amendments were not made to narrow the original scope of the invention as claimed, the application of the Doctrine of Equivalents is not affected.

The Examiner is requested to reconsider and withdraw this rejection.

#### **Rejection – Double Patenting**

Claims 1-4, 6, 7, 9, 10, 15 to 18, 22 to 27 and 37 to 57 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 58, 59, 60 and 62 of copending Application Serial No. 10/390,078.

Applicants respectfully disagree with this rejection.

The conflicting claims, as the Office Action notes, have not in fact been patented as yet. Therefore, this rejection is premature. Further, if this rejection is the only remaining rejection preventing an allowance, the rejection should be withdrawn from the present Application.

Also, the present amendments, limiting the claims to the elected and examined subject matter, have removed the underlying basis for the rejection. The cited species in the copending Application do not read on the presently amended claims.

The Examiner is therefore requested to reconsider and withdraw this rejection.

### **Information Disclosure Statement**

The subject matter of the present Application is covered by Applicants' EP Application No. 02739172.1 (Applicants' Docket No. OC01406K1) and Applicants' EP Application No. 03772075.2 (Applicants' Docket No. OC01406K7RFD).

The Information Disclosure Statement submitted herewith cites an EP Communication received for Applicants' EP Application No. 02739172.1. The references referred to in that Communication are given below along with their Reference Number for Applicants' previously submitted Information Disclosure Statement. The references referred to are:

- D1: WO 00/35855 (Applicants' Reference BB);
- D2: WO 01/64208 (Applicants' Reference BF);
- D3: J. Med. Chem., Vol. 43, No. 6, February 2000, pages 1187-1202 (Applicants' Reference BW);
- D4: WO 96/14300 (Applicants' Reference AW);
- D5: WO 96/15103 (Applicants' Reference AX);
- D6: WO 95/14005 (Applicants' Reference AV);
- D7: WO 98/33763 (Applicants' Reference AY); and
- D8: JP 06 092915 (Applicants' Reference CA).

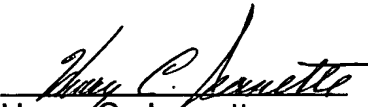
The Information Disclosure Statement submitted herewith cites an EP Communication received for Applicants' EP Application No. 03772075.2. The references referred to in that Communication are given below along with their Reference Number for Applicants' previously submitted Information Disclosure Statement. The references referred to are:

- (A): WO 0192202 (Applicants' Reference BI);
- (B): WO 0168569 (Applicants' Reference BH);
- (C): WO 02083624 (Applicants' Reference BN);
- (D): WO 03080053 (Applicants' Reference BM); and
- (E): WO 0035855 (Applicants' Reference BB).

EP Application No. 02739172.1 published as EP 1381590 on January 21, 2004. A copy of the PCT counterpart of EP 1381590 is also submitted herewith. The PCT counterpart is WO 02/083624.

EP Application No. 03772075.2 published as EP 1539678 on June 15, 2005. A copy of EP 1539678 is also submitted herewith. A copy of the PCT counterpart of EP 1539678 is also submitted herewith. The PCT counterpart is WO 2004/011418.

Respectfully submitted,

  
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